

REMARKS

Reconsideration of the application, as amended, is respectfully requested.

Claim 1 has been amended, without prejudice, to recite phytosterols rather than sterols. This is supported by original claim 1. Accordingly, claims 18 and 19 have been cancelled without prejudice. This would appear also to moot the Section 112 enablement rejection.

Claim 12 has been amended to provide better antecedent basis to make it clearer that the recited extracts are sources of the carotenoids recited in claim 1.

Claim 7 recites a composition according to claim 1 wherein at least 20 weight % of the carotenoids are present in the form of partly broken up chromoplasts and/or chloroplasts. It is believed that this claim properly further defines the invention recited in claim 1 by reciting that at least 20 weight % of the carotenoids are present in a particular form. Claim 8 is similar. Therefore, it is respectfully submitted that these claims are in proper form and should be allowed.

It has been reported that diets with an effective amount of cholesterol-lowering phytosterols diminish the lipophilic carotenoid levels in the blood. The present invention is directed to solving this problem, and to attempting to maintain or improve carotenoid status. As recited in claim 1, in the present invention a specific distribution of the carotenoids and the sterols over different phases is used. Moreover, the carotenoids in the composition contain β -carotene and lycopene in a specific ratio. In addition, claim 15 recites a process whereby the composition can be obtained.

While Joy of Cooking does refer to carrots with butter, it appears to be silent on the presence of phytosterols in the butter. The Office has pointed to no reference teaching that butter normally contains phytosterols in any substantial amount.

The Office asserts that it is obvious to substitute other compositions for the butter of Joy of Cooking. This ignores the unexpected result of the present invention. In the present invention, the carotenoids may be added in a specific form to sterol-containing compositions, and the carotenoid-reducing effect of sterols is decreased. The Office points to no teaching of this before. Therefore, it is submitted that the Office's rejection is based on a hindsight analysis. The Office points to no teaching that carotenoids should be placed in phytosterol-containing compositions to affect any carotenoid depletion.

In view of the foregoing, it is respectfully requested that the application, as amended, be allowed.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the claims:

Please cancel claims 18 and 19 and amend claims 1 and 12, without prejudice, as follows:

1. (Twice amended) Edible composition comprising phyto sterols or derivatives thereof in an amount of at least 0.5 (g) per 100-150 (g), further comprising carotenoids in an amount of at least 1 (mg) per 100-150 (g), and wherein at least 20% wt of the carotenoids is in another phase than at least 50% wt of the total amount of the phyto sterols present, and wherein said carotenoids comprise β -carotene and lycopene in a ratio of between 1:20 and 1:0.2.
12. (Amended) Composition according to claim 1, which comprises (extracts of) processed tomato, capsicum, red peppers, water mellon, carrots, or other fruit or vegetables containing the carotenoids, in an amount of 10-99%, based on fresh weight.